

EXHIBIT A

Managed Service Provider Agreement

This Managed Service Provider Agreement (the "**Agreement**") is made and entered into as of March 2, 2019 (the "**Effective Date**") between Symmetry Workforce Solutions, LLC, located at 5930 Cornerstone Court West, Suite 300, San Diego, CA 92121 ("**Symmetry**") and Capital Health System, Inc. located at 750 Brunswick Avenue, Trenton, NJ 08638 ("**Client Entity**"). Symmetry and Client (as defined in the Agreement) are sometimes referred to in this Agreement individually as a "**Party**" or collectively as the "**Parties**".

NOW, THEREFORE, for and in consideration of the recitals above and the mutual covenants and conditions contained herein, Symmetry and Client agree as set forth below.

I. STRATEGIC MANAGED SERVICE PROVIDER RELATIONSHIP

- a. **CLIENT ENTITY AND ITS PARTICIPATING FACILITIES.** Client Entity is a healthcare organization that owns or operates one or more hospitals, clinics, or other healthcare facilities, including those identified in the attached Exhibit A (the "**Participating Facilities**"). The list of Participating Facilities may be modified by mutual written agreement of Client Entity and Symmetry. Client Entity and the Participating Facilities are collectively, referred to as "**Client**."
- b. **MANAGEMENT OF CLIENT'S CONTINGENT LABOR NEEDS**
 - i. From time to time Client utilizes Candidates (as defined below in section II-(a)) to supplement their existing workforces with contingent labor. Symmetry shall act as Client's strategic managed service provider with respect to the provision of Candidates to Client. Client's Chief Nursing Officer shall use reasonable efforts to source, place orders for, and staff Candidates for positions sourced or recruited by Client's Chief Nursing Officer through Symmetry and this Agreement. Client will first communicate its needs for such Candidates to Symmetry using a method agreed to by the Parties. As a managed service provider, Symmetry will use commercially reasonable efforts to recruit, submit and staff qualified Candidates to fulfill Client's needs through the use of Agencies (as defined below). Upon request, Symmetry shall also provide Client with reasonable reporting on the services provided, billing, payments, and staffing usage on a quarterly basis, or otherwise as agreed to by the Parties.
 - ii. Notwithstanding the foregoing, if Symmetry is not able to fill an order for a Candidate requested by the Chief Nursing Officer within fourteen (14) days of it being submitted to Symmetry, then Client shall have the right to use other vendors (the "**Alternate Vendors**") to fulfill such order(s). However, Client may not use as an Alternate Vendor any vendor who has an active subcontracting Agreement with Symmetry. Symmetry shall have no responsibility for Candidates placed by Alternate Vendors.
 - iii. Symmetry shall use its corporate affiliates or third-party staffing subcontractors (each an "**Agency**") to provide Candidates under this Agreement. Symmetry shall have the discretion to choose its Agencies; provided, however, that Client may instruct Symmetry in writing to not use particular Agencies. Candidates actually provided under this Agreement are referred to in this Agreement as the "Symmetry Candidate(s)." The Parties acknowledge that Candidates are not employees of Symmetry.
 - iv. In furtherance and not in limitation of the foregoing, Symmetry shall coordinate and facilitate confirmations, the exchange of documents, and all other communications with Agencies. Client will not communicate directly with any Agency regarding positions sourced under this Agreement without Symmetry's written consent.
- c. **IMPLEMENTATION; GO LIVE DATE.** This Agreement shall apply to all new orders, assignments, and extensions for Candidates starting on or after the "Go Live Date." The Go Live Date for the Agreement will be set for a date that is within one hundred and twenty (120) days of the Effective Date of the Agreement with the exact date to be mutually agreed upon between the Parties during implementation. Client agrees to use reasonable efforts to cooperate with Symmetry during the implementation process, including, but not limited to, providing Symmetry with sufficient access to Client's personnel, information and documents reasonably necessary for the successful implementation of the program.
- d. **CONSOLIDATED INVOICING AND PAYMENT TERMS.** Symmetry will send a single, consolidated invoice covering all services performed under this Agreement for a given weekly billing period to the contact designated by Client. Client shall pay the invoices within forty-five (45) days of Client's receipt of the invoice.

II. PROVISION OF CANDIDATES

- a. **CANDIDATES.** As used in this Agreement, the phrase "Candidates" means the following types of personnel:
 - i. **Clinical Candidates:** Registered nurses, certified nurse assistants, clinical technicians, therapists, and other clinical, nursing and allied healthcare professionals (not including advanced practice nurses,

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physicians, or physicians' assistants) who are assigned to perform work for Client on a temporary or supplemental basis. The scheduling and rate terms applicable to Clinical Candidates are set forth on Addendum A. Clinical Candidates are divided into the following subclasses:

- (a) **Travel Candidates:** Clinical Candidates who are assigned to perform work for Client or a Participating Facility on a temporary or supplemental basis for a specified assignment duration of one (1) to fifty-two (52) weeks in length, with a typical assignment lasting thirteen (13) weeks.
 - (b) **Per Diem Candidates:** Clinical Candidates who are assigned to perform work for Client or a Participating Facility on a temporary or supplemental as needed shift basis, and who are not generally confirmed for assignments of a specified duration.
- b. **SCHEDULING, RATE AND CANDIDATE TERMS.** The scheduling, rate, and billing terms applicable to Symmetry Candidates' offered positions by Client are set forth in the attached Addendum(a) as determined by Candidate type. The Addendum(a) may be amended, as mutually agreed by Client Entity and Symmetry in writing. The details relating to a particular Symmetry Candidate's assignment, such as unit/department, shift, and dates of assignment will generally be confirmed in writing through a work order confirmation, each of which made a part of this Agreement by reference; provided that this Agreement will govern in the event of any conflict between the terms of the work order and this Agreement.
- c. **CANDIDATE TIMEKEEPING & APPROVAL.** Client is responsible for accurately recording and approving the time worked by Symmetry Candidates. Client shall not permit Symmetry Candidates to perform work "off-the-clock." Each week, Client will provide Symmetry with approved weekly time records for all Symmetry Candidates in an electronic or other format acceptable to Symmetry by noon on the Tuesday following the end of the workweek. The time records shall reflect all time worked by each Symmetry Candidate (including the start and stop times of each work period and start and stop times of each meal period) as well as any other billable hours (such as on-call time). If Client fails to timely provide or otherwise promptly approve or object to time records, the time records submitted by the Symmetry Candidate, Symmetry or an Agency will be presumed accurate.
- d. **RATES INCLUSIVE.** All rates stated in the Addendum(a) are all-inclusive and include recruitment fees, travel reimbursement, lodging per diem reimbursement, meal & incidental expense per diem reimbursement and compensation for Symmetry Candidates. Client acknowledges that it will be subject to the 50% deduction limitation under Internal Revenue Code ("IRC") § 274(n) to the extent such limitation applies to any reimbursement for which it is responsible. Symmetry will provide Client with sufficient substantiation of any such reimbursement in accordance with IRC § 274(d). At no additional charge, Symmetry may also provide access to a technology solution (subject to the terms relating to use of such solution as set forth in this Agreement) chosen in Symmetry's sole discretion or Symmetry clinical interview screening of Clinical Candidates submitted by Symmetry.
- e. **CANDIDATE SCREENING & CLIENT POLICIES.** Client shall screen, interview and accept or reject Candidates submitted by Symmetry in a timely manner and notify Symmetry of the starting date, unit, shift, and orientation schedule for each accepted Symmetry Candidate. All selected Symmetry Candidates will abide by all applicable and lawful Capital Health policies and procedures to the extent that Symmetry, Agencies and Symmetry Candidates are made aware of or provided with reasonable access to such policies and procedures.
- f. **CANDIDATE COMPETENCY DOCUMENTATION AND COMPLIANCE DOCUMENTATION.**
 - i. **Competency and Compliance Documentation.** Except where prohibited by law, Symmetry will maintain on file or contractually require Agencies to maintain on file Competency Documentation and Compliance Documentation for each Symmetry Candidate. "**Competency Documentation**" will generally include documentation of the qualifications of each Symmetry Candidate as reasonably necessary to establish competency, which may depend on the position and type of Candidate at issue but may include completed employment application and professional references. For Clinical Candidates, Competency Documentation also includes (as applicable for the position at issue) primary source verification of State Licensure, clinical skills checklist(s), unit and medication competency exams, Basic Cardiac Life Support and Advanced Certifications, and documentation showing that a Clinical Candidate has a minimum of one (1) year of applicable experience. "**Compliance Documentation**" will be in accordance with Client's policies and generally include, but not be limited to, the following: a negative 10-panel drug screen, negative PPD test results or Quantiferon Gold (or, if past positive PPD, chest X-ray with TB questionnaire), physical health statement, Varicella documentation, Rubella, Mumps and Rubeola documentation, Hepatitis B documentation, , and background checks which include criminal background check, sex offender registry

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search (national database), social security verification (E-verify), and healthcare sanctions registry (OIG and GSA search).

- ii. **Provision of Documentation.** Unless prohibited by law, Symmetry shall use commercially reasonable efforts to provide to or make available for inspection by Client, the Competency Documentation and Compliance Documentation one (1) week prior to the Symmetry Candidate's start date, but Symmetry's failure to provide such documentation one (1) week prior shall not affect the Symmetry Candidate's ability to start an assignment, provided the required documentation is provided by the time of start. All Client requests for additional documentation must be made in writing and such requests shall be reasonably accommodated by Symmetry.
- iii. **Client Compliance with Laws.** Client agrees to treat all Competency Documentation, Compliance Documentation, and other personnel information relating to Symmetry Candidates as Confidential Information within the meaning of this Agreement, including as required by applicable state and federal law, such as the Americans with Disabilities Act, and to not disclose such documentation unless authorized by law, Symmetry, or the Symmetry Candidate. Client also agrees to comply with all applicable laws governing the use and handling of personnel files and backgrounds checks, including, but not limited to, the federal Fair Credit Reporting Act, as well as any other applicable federal, state, or local laws.
- g. **CANDIDATE COMPENSATION.** Symmetry or its affiliate, will or will contractually require the applicable Agency to: (i) employ and compensate the Symmetry Candidates for hours worked for Client; (ii) deduct all applicable payroll taxes such as FICA, Federal and State from the compensation of Symmetry Candidates in compliance with state and federal law and (iii) maintain relevant employment documentation such as an I-9 form, W-4 form, and photo identification for Symmetry Candidates.
- h. **PERFORMANCE OUTCOMES.** Client shall notify the designated Symmetry representative immediately and provide written documentation (incident report) of any unsatisfactory performance or conduct of any Symmetry Candidates. Client will provide performance evaluations from its director of nursing or equivalent personnel to Symmetry in the event of any unsatisfactory performance or conduct and at the end of each assignment.
- i. **SENTINEL EVENT REPORTING.** In the event of any unexpected incidents, including errors, unanticipated deaths, injuries, safety hazards or other events or claims ("**Sentinel Events**") involving or relating to any Symmetry Candidate, Client shall report the Sentinel Event to Symmetry within a reasonable timeframe not to exceed two (2) business days. Reports should include the name of Symmetry Candidate and any other persons involved, as well as the date, time, location, and description of facts and circumstances surrounding the Sentinel Event. The Parties agree to use reasonable efforts to timely assist each other in conducting investigations of such Sentinel Events. In the event any Symmetry Candidate makes a claim against Client alleging any wrongdoing, Client shall promptly notify Symmetry.
- j. **CANDIDATE INJURY PROCEDURES.** In the event of an unexpected injury to any Symmetry Candidate at Client's job site, Client will instruct the Symmetry Candidate to notify its Agency and to seek treatment at a third-party healthcare provider designated by its applicable Agency unless the injury is an emergency. In the event of an emergency, Client will immediately send the injured Symmetry Candidate to the closest emergency room and provide transportation if reasonably necessary or appropriate. Client shall notify Symmetry of injuries to Symmetry Candidates within a reasonable time not to exceed twenty-four (24) hours of learning of the injury and shall complete and submit to Symmetry a written incident report in a format acceptable to that includes the name of Candidate involved, as well as the date, time, location, and brief description of events and other persons involved in the incident.
- k. **FLOATING.** Client agrees to float Symmetry Candidates in rotation with Client's staff and in accordance with Client's floating policies, as well as the clinical experiences of the Symmetry Candidate being asked to float. Client confirms that Client's policies on floating comply with current standards of The Joint Commission or other applicable accrediting body, including the provision of an appropriate orientation to the new unit.
- l. **MANNER OF WORK.** Symmetry Candidates are not supervised by Symmetry; they are subject to Client's supervision while performing services for Client pursuant to this Agreement. Client shall be responsible for determining the clinical competencies required of Symmetry Candidates. Notwithstanding the foregoing, Client shall not, without the prior written consent of Symmetry, permit or request any Symmetry Candidate to perform any work or task or render any service that does not fall within the scope of the duties and responsibilities for such Symmetry Candidate's confirmed assignment. Client shall not, under any circumstances, entrust any Symmetry Candidate with, cash, checks, credit cards, merchandise, , negotiable

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instruments or other valuables without the express prior written permission of Symmetry. Client shall not, under any circumstances, request or permit any Symmetry Candidate to use any vehicle, regardless of ownership, in connection with the performance of any work or service for Client without the written permission of Symmetry.

- m. **SAFETY.** Client agrees to provide Symmetry Candidates with a safe and healthy work environment and to provide safety training, equipment, clothing, or devices necessary or required by all applicable laws for any work to be performed which is provided to Client's own employees or other contractors in the performance of similar work. Client agrees that it shall have in place at all times policies and protocols in compliance with all applicable laws related to employee health, safety and well-being and make such policies available to Symmetry Candidates as if they were a member of Client's regular workforce.
- n. **MEAL AND REST BREAKS.** Client shall schedule Symmetry Candidates so as to allow them sufficient time to take any legally required meal, rest, or recovery breaks.

III. GENERAL TERMS

- a. **TERM; TERMINATION.** The term of this Agreement shall be for a period of three (3) years from the Effective Date, and thereafter, this Agreement will renew automatically for successive one (1) year periods, unless and until terminated as provided herein. Either Party may terminate this Agreement, with or without cause, at any time upon ninety (90) days' written notice to the other Party. Either Party may also terminate this Agreement upon the occurrence of any of the following events (a "**Termination for Cause**"): (i) the other Party has materially breached any of the terms or conditions of this Agreement and such breach, if capable of cure, is not cured by the breaching Party within twenty (20) calendar days following written notice to the breaching Party, (ii) the other Party dissolves; (iii) the other Party becomes insolvent or institutes insolvency proceedings or files, or is subject to a voluntary bankruptcy proceeding, petition, or action; (iv) the filing of relief against the other Party of, or the other Party is otherwise subject to, an involuntary bankruptcy proceeding, petition or action where such action is not removed or terminated within sixty (60) calendar days; (v) the assignment by the other Party of its property for the benefit of creditors; or (vi) the appointment of any receiver, trustee or liquidator for the other Party or for any property of the other Party, where such appointment is not removed or terminated within sixty (60) calendar days. If either Party terminates this Agreement (other than a Termination for Cause by Symmetry), all Candidates then on an assignment will continue on and complete their assignments to the extent reasonably able to do so, in accordance with the terms of this Agreement. The provisions of this Agreement relating to confidentiality and any other provisions which by their nature should survive termination or expiration of this Agreement shall so survive.
- b. **CONFIDENTIALITY.** The Parties acknowledge that they may receive from each other from time to time, information and/or material which is confidential in nature, including, but not limited to, policies, marketing, pricing, financial information, or other confidential business information relating to Symmetry, Client, or each of their clients, customers, patients, subcontractors or employees, or personnel, Compliance Documentation or Competency Documentation of Symmetry Candidates, or applicants (collectively "**Confidential Information**"). The Parties agree to treat as confidential and not to divulge to any third-parties any Confidential Information of the other Party (and with respect to Client of Agencies), except to their own employees, agents, attorneys, accountants, or representatives who have a need to know the Confidential Information to satisfy their obligations under this Agreement (collectively, "**Representatives**"), and to use such Confidential Information only for legitimate business needs relating to the performance, administration or enforcement of this Agreement. In the event a Party provides Confidential Information to such Party's Representatives, the Party shall be liable for such Representatives' compliance with the terms of this paragraph and shall require the Representatives to treat such information and/or material as confidential. Nothing herein, shall prohibit either Party from responding to lawful inquiries from government agencies or other lawful process, such as subpoenas. The Parties agree to the issuance of an injunction to prevent violations of this paragraph.
- c. **INSURANCE.** Symmetry will provide general liability insurance with a limit of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate per year. Symmetry will provide or cause to be provided professional liability insurance with a limit of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate per year for Clinical Candidates provided through this Agreement. Symmetry will also provide or cause to be provided worker's compensation insurance with statutory limits required by applicable law for each Candidate and employer's liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence. Symmetry will provide certificates of insurance to Client upon execution of this Agreement and thereafter as requested.

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d. INDEMNIFICATION.

- i. **Symmetry and Client Mutual Indemnification.** To the fullest extent permitted by law, each Party (an "**Indemnifying Party**") agrees to indemnify and hold the other Party and the other Party's respective affiliates, and each of their respective officers, directors, agents, and employees (each an "**Indemnified Party**"), harmless from any claims, damages, interest, penalties, and reasonable attorneys' fees and costs ("**Losses**") to the extent caused by: (i) any breach of this Agreement by the Indemnifying Party or its agents; (ii) violations of applicable law by the Indemnifying Party or its agents in connection with the performance of this Agreement; or (iii) negligent or willful acts or omissions of the Indemnifying Party or its agents in connection with the performance of this Agreement; except that the indemnity obligations in this section shall not apply to the extent the Losses are caused by the negligent act or omission, willful misconduct, breach of this Agreement or unlawful act of an Indemnified Party.
 - ii. **Client Indemnification of Agencies.** To the fullest extent permitted by law, Client (the "**Indemnifying Client**") agrees to indemnify and hold each Agency and its respective affiliates, and each of their respective officers, directors, agents, and employees (each an "**Indemnified Agency Party**"), harmless from any Losses to the extent caused by: (i) any breach of this Agreement by the Client or its agents; (ii) violations of applicable law by the Client or its agents in connection with the performance of this Agreement; or (iii) negligent or willful acts or omissions of the Client or its agents in connection with the performance of this Agreement; except that the indemnity obligations in this section shall not apply to the extent the Losses are caused by the negligent act or omission, willful misconduct, breach of this Agreement or unlawful act of Agency. Notwithstanding anything to the contrary in the Agreement, Agencies shall be considered third-party beneficiaries of Client's indemnification obligations under this section.
 - iii. **Agency Indemnification of Client.** Symmetry shall contractually require Agencies (each an "**Indemnifying Agency**"), to the fullest extent permitted by law, to agree to indemnify and hold each Client and its respective affiliates, and each of their respective officers, directors, agents, and employees (each an "**Indemnified Client Party**"), harmless from any Losses to the extent caused by: (i) any breach of Agency's agreement with Symmetry by Agency or its agents; (ii) violations of applicable law by the Agency or its agents or employees in connection with the performance of the Agency's agreement with Symmetry in respect to performance of work for Client; or (iii) negligent or willful acts or omissions of the Agency or its agents or employees in connection with the performance of the Agency's agreement with Symmetry; except that the indemnity obligations in this section shall not apply to the extent the Losses are solely caused by the negligent act or omission, willful misconduct, breach of this Agreement or unlawful act of Client. In addition, Agencies shall be responsible for indemnifying Client for the acts or omissions of the Candidates.
 - iv. **Indemnification Procedure:** Any person or entity claiming a right to indemnity under this section (iv) (the "**Indemnatee(s)**") shall notify all entities and persons that it believes may owe a duty to indemnify it (the "**Indemnitor(s)**") in writing promptly after receiving notice of a claim, lawsuit, demand, or action or threatened claim lawsuit, demand, or action for Losses covered by the indemnity obligations in this section (a "**Claim**") and provide documentation pertaining to the Claim to the Indemnitors upon request. The Indemnitees and Indemnitors agree to keep each other reasonably informed regarding the status of any Claims and allow each other reasonable opportunities to participate in the defense and settlement of Claims, including by providing notice and consulting with each other prior to settling any Claim. Any omission or delay in complying with this section by an Indemnatee shall relieve an Indemnitor of its obligations to the extent it is prejudiced by such omission or delay. Notwithstanding anything to the contrary in this Agreement, this section shall survive any termination or expiration of this Agreement.
- b. **LIMITATION OF LIABILITY; DISCLAIMER.** NOTWITHSTANDING ANY OTHER AGREEMENT OR PROVISION TO THE CONTRARY IN THIS AGREEMENT, EXCEPT WITH RESPECT TO LIABILITIES ARISING FROM THIRD-PARTY CLAIMS UNDER NO CIRCUMSTANCES WILL EITHER PARTY HERETO OR AGENCIES BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (AND TO THE FULLEST EXTENT PERMITTED BY LAW, PUNITIVE DAMAGES) INCLUDING, BUT NOT LIMITED TO, FINES OR PENALTIES AND LOSS OF PROFITS, WHETHER IN CONTRACT, TORT, NEGLIGENCE, WARRANTY OR OTHERWISE, WHETHER OR NOT A PARTY OR AGENCY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR CLIENT'S PAYMENT OBLIGATIONS, NEITHER PARTY'S LIABILITY HEREUNDER SHALL BE GREATER THAN THE GREATER OF (I) ONE MILLION DOLLARS (\$1,000,000.00) OR (II) THE AMOUNTS CHARGED BY

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SYMMETRY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE INCIDENT GIVING RISE TO THE CLAIM THAT IS THE BASIS FOR SUCH LIABILITY; OR (III) IF A CLAIM IS COVERED BY INSURANCE REQUIRED TO BE MAINTAINED UNDER THIS AGREEMENT, THE LIMITS OF INSURANCE REQUIRED BY THIS AGREEMENT. Notwithstanding anything to the contrary in this Agreement, this section shall survive any termination or expiration of this Agreement.

c. **TECHNOLOGY SOLUTION.**

- i. **Terms of Use.** In connection with its performance under this Agreement, Client may be given access to a technology solution(s), provided by Symmetry or a third party, to facilitate the performance of services under this Agreement, such as Symmetry's designated web-based portal known as **Lotus Connect** (collectively, the "**Technology Solutions**"). Lotus Connect is proprietary to Lotus Workforce, LLC ("**Lotus Workforce**"), a Symmetry affiliate. Client agrees to comply with all terms of use requirements for such Technology Solutions at all times, including, but not limited to, such terms as may be provided by third party providers or corporate affiliates of Symmetry of the Technology Solutions. The current terms of use for Lotus Connect are located at <https://www.lotusconnect.com/terms-of-use/> and the current electronic consent policy is located at: <https://www.lotusconnect.com/electronic-consent-agreement/> (collectively, the "**Terms of Use**"), and incorporated herein by reference as though set forth in full at this point. Client agrees to comply with the Terms of Use and that it is a "User" as defined and used in the Terms of Use. The Terms of Use are modified herein so that in lieu of the notice procedures in such agreement, any notices required to be given to Symmetry under the Terms of Use, including any updates to email addresses, shall be provided in accordance with the notice provisions in this Agreement. Client agrees that the entirety of Lotus Connect, including, but not limited to, its design, source code, databases, content (collectively "Symmetry Technology Information") shall be considered Confidential Information of Symmetry and Lotus. Notwithstanding the foregoing, any proprietary information or data of Client uploaded by Client into the Technology Solutions will remain the property of Client and shall be considered Confidential Information of Client (the "Uploaded Client Information").
- ii. **License; Proprietary Rights.** Client hereby grants Symmetry and Lotus Workforce a limited, non-exclusive, right and license to use the Uploaded Client Information solely for Symmetry's or Lotus Workforce's use relating to this Agreement or for use in anonymized format for historical or other purposes and subject to the confidentiality provisions herein. Except for the limited, non-exclusive, use rights expressly granted herein, Symmetry and Lotus Workforce reserves all rights, titles, and interests not expressly granted to Client and this Agreement does not transfer any right, title or interest in the Technology Solutions, Lotus Connect, Symmetry Technology Information or other Symmetry or Lotus Workforce Confidential Information to Client.
- iii. **Use Restrictions.** Client agrees that its access and use of the Technology Solutions shall be limited only to the extent such access and use directly relates to and is necessary for Client's performance under this Agreement. Client shall limit access to the Technology Solutions to only those employees or agents of Client with a legitimate business need for such access. Client's access and use of the Technology Solutions may be terminated: (i) upon Client's breach of this Agreement, (ii) automatically upon the termination or expiration of this Agreement, or (iii) at Symmetry's or Lotus Workforce's discretion upon notice. In no event shall Symmetry or Lotus Workforce be liable for damages in connection with such termination. Client shall not, and shall use commercially reasonable efforts to ensure that its employees, agents, and contractors do not use or make Technology Solutions available for use by any unauthorized persons or for any use not explicitly permitted by this Agreement, and Client agrees it shall be responsible for violations by Client or its agents or employees of this provision or the applicable terms of use in effect at the time of such access. Client shall be responsible for notifying Symmetry and Lotus Workforce promptly in the event Client's relationship with any employee or agent who had access to the Technology Solutions is severed, so that passwords may be updated or accounts disabled as necessary. Client's use of the Technology Solutions may be monitored for usage level and ensure compliance with this Agreement and any applicable terms and conditions.
- iv. **WARRANTY.** With respect to the Technology Solution, Symmetry agrees to provide reasonable training or support in connection with the use of the Technology Solution. Any training or support will be provided by qualified individuals. Symmetry warrants that it owns all rights, titles, and interests in the Technology Solutions or has obtained rights in the Technology Solutions sufficient to grant the use rights granted to Client under this Agreement. No additional agreements or licenses are required to be obtained by Client to access and use Lotus Connect other than as stated in this Agreement. Symmetry

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agrees to use commercially reasonable efforts, to ensure that the Technology Solutions are free from viruses, worms, Trojan horses, spyware, adware, and other malicious code and do not intentionally disrupt, damage or interfere with Client's computer or related system.

- v. **Indemnification for Infringement Claims.** Symmetry will defend, indemnify, and hold Client harmless from and against any loss, cost, and expense (including reasonable attorney's fees) to the extent arising out of a third party claim against Client that the Technology Solutions or other Third Party Products infringe any United States-based patent, copyright, trademark, service mark, or other intellectual property right of others.
- vi. **DISCLAIMER.** EXCEPT AS OTHERWISE EXPLICITLY PROVIDED IN THIS SECTION, ALL TECHNOLOGY SOLUTIONS ARE PROVIDED "AS IS" WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND. SYMMETRY AND LOTUS WORKFORCE DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM TRADE USAGE OR COURSE OF DEALING. SYMMETRY AND LOTUS WORKFORCE DO NOT WARRANT THAT TECHNOLOGY SOLUTIONS WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION. SYMMETRY SHALL USE REASONABLE EFFORTS TO MAINTAIN AN UPTIME OF 99%.
- b. **ACCESS CLAUSE: COMPLIANCE WITH SECTION 420.302(b).** To the extent required by applicable law, Symmetry agrees to comply with 42 C.F.R. Section 420.302(b) and will provide access to the Comptroller General of the United States, the Department of Health and Human Services and their duly authorized representatives to this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of the services performed. This includes Symmetry subcontractors that have a contract with Symmetry for which the cost or value is \$10,000 or more in a twelve (12) month period. Said access shall be limited to a period of four (4) years after the furnishing of services under this Agreement hereunder.
- c. **COMPLIANCE WITH APPLICABLE LAWS & ACCREDITING STANDARDS.** The Parties will abide by and comply with all applicable local, state, and federal regulatory agency requirements in performing this Agreement. Client will also comply with all applicable standards of any accrediting organizations of which it is a member or by which it is accredited.
- d. **NONDISCRIMINATION.** In compliance with federal law, including the provisions of the Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Acts of 1973, and the American with Disabilities Act of 1990, the Parties hereto will not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, sexual orientation or military service.
- e. **INDEPENDENT NATURE OF PARTIES.** Symmetry provides services to Client as an independent contractor. Neither Party to this Agreement shall be considered the agent, partner, joint venture, franchisor, franchisee, employer, or employee of the other Party. For clarity, the Candidates are neither agents nor employees of Client.
- f. **SUBCONTRACTORS.** Symmetry may use affiliates and subcontractors to perform its duties and obligations under this Agreement. Symmetry agrees that it shall provide reasonable reporting upon request from Client on the Agencies providing services under this Agreement and Client may instruct Symmetry not to use any particular Agency in writing
- g. **NOTICES.** All notices, requests, demands or other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the Party to whom notice is to be given, or on the second day after mailing if mailed to the Party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as provided below. Any Party may change its address for purposes of this paragraph by giving the other Party written notice of the new address in the manner set forth above.

To: **Capital Health System, Inc.**

ATTN: Chief Nursing Officer

750 Brunswick Avenue

Trenton, NJ 08638

Email:

DMican@capitalhealth.org

To: **Symmetry Workforce Solutions, LLC**

Attn: Facility Contracts

5930 Cornerstone Court West, Suite 300

San Diego, CA 92121

Email: contracts@symmetryworkforce.com

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CC: Capital Health System, Inc.
Office of General Counsel
750 Brunswick Avenue
Trenton, New Jersey 08638

CC: Attn: Legal
Symmetry Workforce Solutions, LLC
5930 Cornerstone Court West, Suite 300
San Diego, CA 92121


- e. **ASSIGNMENT.** Neither party may assign, transfer, or encumber any of its rights or duties under this Agreement without the prior written consent of the other party, except in the case of a merger, consolidation or sale of substantially all the assets or capital stock of a party. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties.
- f. **FORCE MAJEURE.** Neither party shall be responsible to the other party for failure or delay in performance under this Agreement if such failure or delay is due to fires, riots, war, acts of God, or any other acts, causes or occurrences beyond the reasonable control of such party.
- g. **ENTIRE AGREEMENT.** This Agreement, including all exhibits and addenda, contains the entire agreement between the Parties relating to the subject matter hereof. All prior and contemporaneous oral and written agreements, understandings, negotiations, commitments and practices between the Parties are hereby superseded. No amendments to this Agreement may be made except by a written agreement signed by both Client Entity and Symmetry.
- h. **GOVERNING LAW.** The Parties hereto agree that this Agreement will be governed by and construed in accordance with the laws of the State of New Jersey without reference to its choice of law rules and as if wholly performed within the State of New Jersey.
- i. **SEVERABILITY.** If any provision of this Agreement is held to be invalid, void or unenforceable such provision shall be amended to the extent permissible as to effectuate the original intent of the parties, and all other provisions shall remain valid and be enforced and construed as if such invalid provision were never a part of this Agreement.
- j. **SURVIVAL.** Those provisions that by their nature are intended to survive termination or expiration of this Agreement shall so survive, including, but not necessarily limited to, all indemnity, payment, confidentiality and insurance obligations set forth herein.
- k. **INCORPORATION BY REFERENCE.** Each Exhibit, Schedule or Addendum attached to this Agreement is hereby incorporated by reference in this Agreement as if the same was set out in full in the text of this Agreement.
- l. **ADVICE OF COUNSEL.** Each Party acknowledges that it has been given the opportunity to discuss this Agreement with their legal counsel and utilized that opportunity to the extent desired. Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against one Party.
- m. **WAIVER.** The failure of either Party to enforce at any time, or from time to time, any provision of Agreement shall not be construed as a waiver thereof.
- n. **AUTHORITY.** Each person signing this Agreement on behalf of a Party represents that they have the authority to bind the Party for whom they are signing to this Agreement.
- o. **HEADINGS.** The titles of the articles, sections, subsections, paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

--SIGNATURE PAGE FOLLOWS --

Managed Service Provider Agreement

AGREED TO AND ACCEPTED BY:

Capital Health System, Inc.


By: 
Signature

Name: Shane Fleming,

Title: Sr. Vice President, CFO

Date: March 2, 2020

Symmetry Workforce Solutions, LLC

By: 
Signature

John Martins

Name

SVP of Operations Strategy

Title

01/16/2020

Date

Managed Service Provider Agreement

Exhibit A

The following hospitals and clinics are "**Participating Facilities**" in this Agreement:

All hospitals and clinics of Client, including those currently listed on the following website:

<https://www.capitalhealth.org/our-locations>

Managed Service Provider Agreement

Addendum A
TERMS AND CONDITIONS FOR CLINICAL CANDIDATES

RATES & RATE RULES FOR CLINICAL CANDIDATES	
Regular Rates	Regular rates vary by position and are set forth in Addendum A-1: Rate Tables.
Enhanced Rate	Where Symmetry and Client mutually agree that a higher rate is appropriate to fill a certain position(s), an enhanced rate may be negotiated. Enhanced Rates will be mutually agreed to and confirmed through the offer process such as by work order confirmation or through the technology solution.
Overtime	Overtime will be billed at a rate of one and three tenths times (1.3x) the regular rate. Overtime is generally defined as hours worked in excess of forty (40) hours in one workweek.
On-Call & Call-Back	On-call hours worked will be billed at \$10.00 per hour. If a Candidate is on-call and is then called back/called in to work, all hours worked will be billed at a Call-Back rate equal to one and three tenths times (1.3x) the regular rate with a minimum of two (2) hours.
Holidays	Work performed on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, as defined below, will be invoiced at a Holiday rate of one and three-tenths times (1.3x) the regular rate. Holidays begin at 7:00 PM the night before the holiday, and end at 7:00 AM the day after the holiday.
Charge	Work performed by Travel Candidates when working in a Charge Nurse capacity will be billed at the applicable rate plus \$5.00 per hour.
Mileage	For home health professionals or other professionals where driving is required to perform their job, Client will reimburse Symmetry for mileage incurred by the home health professional for travel between visit locations. In addition, mileage to the home health professional's first visit in a day and from the home health professional's final visit in a day shall be reimbursed to the extent the distance between the first or final visit and the home health professional's home exceeds thirty (30) miles. All mileage shall be reimbursed at the IRS Standard Mileage Rate in effect at the time of travel.

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SCHEDULING AND CANCELLATION POLICIES FOR TRAVEL CANDIDATES	
Scheduling & Guaranteed Hours	<p>Travel Candidates will be confirmed for assignments scheduled to last for between one (1) and fifty-two (52) weeks. Travel Candidates can be assigned to eight (8), ten (10), or twelve (12) hour shifts.</p> <p>Call-Off. Notwithstanding the foregoing, Client may cancel (call-off) up to one shift per pay period without paying for the cancelled hours. The cancelled shifts must be the regular shift length to which the Travel Candidate is assigned (i.e. Client cannot break down the shift cancellations into smaller increments.) If Client cancels more shifts than permitted by this section, Client will be billed for any shifts or portions thereof cancelled in excess of this section. If Candidates are placed on-call in lieu of being called off, that will count as a called-off shift.</p>
Orientation	<p>Client will provide Travel Candidates with orientation in accordance with the standards of The Joint Commission or other applicable accrediting body and Client's policies. All time spent by Travel Candidates in Client-provided or required orientation is billable.</p>
Pre-Start Cancellations	<p>After acceptance of Candidate for travel assignment by Client, Client may not cancel that assignment within seven (7) days prior to the assignment start date. If deemed necessary to cancel such assignment within seven (7) days prior to the start date, Client shall be responsible for reasonable costs or expenses incurred by Symmetry, such as housing, travel, disbursements, compliance, screening or other onboarding related costs, and other reasonable costs or expenses incurred by Symmetry as a result of such cancellation.</p>
Post-Start Cancellations	<p>Client shall provide one (1) month's written notice of any cancellation of travel assignment for reasons other than Candidate's inability to perform essential functions of the job unless otherwise agreed upon by the Parties. Should Client be unable to provide such one (1) month's cancellation notice, Symmetry reserves the right to bill Client for two (2) weeks of service at the regular hourly billing rate.</p>
Conversion/ Placement Fee Stipulation	<p>If Client hires any Clinical Candidate who was presented to Client by Symmetry during the term of this Agreement or up to one (1) year after the termination or expiration of the Candidate's placement term, a fee of twenty percent (20%) of the Candidate's annual salary will be paid by Client to Symmetry. If the Clinical Candidate has completed one (1) travel assignment consisting of thirteen (13) or more weeks, the fee is waived. Notwithstanding anything to the contrary in this Agreement, this Section shall survive any termination or expiration of this Agreement.</p>

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SCHEDULING AND CANCELLATION POLICIES FOR PER DIEM CANDIDATES

Scheduling	Per Diem Candidates will be scheduled on a shift or as needed basis using a process agreed to by the Parties.
Orientation	Client will provide Per Diem Candidates with orientation in accordance with the standards of The Joint Commission or other applicable accrediting body and Client's policies. All time spent by Per Diem Candidates in Client-provided or required orientation is billable.
Cancellations	Symmetry and Client agree to a two (2) hour cancellation policy. If Client cancels a scheduled shift less than two (2) hours prior to the start of the shift or with less than two (2) hours' notice during the shift, Client will be billed for two (2) hours plus any time worked.
Late Call	When Client requests Candidate less than one (1) hour prior to the scheduled start of a shift, Client will be billed for that Candidate from the scheduled start of the shift; except if Candidate actually reports to and commences work later than one (1) hour after the start of the shift, Client will only be billed for all actual hours worked. If Candidate is requested after the start of the shift, Client will be billed for that Candidate from the time the request was made; except if Candidate actually reports to and commences work more than one (1) hour after the time of the request, Client will only be billed for all actual hours worked.
Call-Offs (In-Shift Cancellation)	If Candidate is no longer needed by Client after reporting for work, they may be called off by Client. If Candidate is called off by Client, Client shall be billed for the actual number of hours worked by Candidate or four (4) hours, whichever is greater, per the rate structure applicable to that Candidate.
Conversion/ Placement Fee Stipulation	If Client hires any Per Diem Candidate who was presented to Client by Symmetry during the term of this Agreement or up to one (1) year after the termination or expiration of the Candidates placement term, a fee of twenty percent (20%) of the Candidate's annual salary will be paid by Client to Symmetry. If the Per Diem Candidate has completed 520 billable hours, the fee is waived. Notwithstanding anything to the contrary in this Agreement, this Section shall survive any termination or expiration of this Agreement.

AGREED TO AND ACCEPTED BY:

Capital Health System, Inc.

By: 

Signature

Name: Shane Fleming

Title: Sr. VP & Chief Financial Officer

Date: March 2, 2020

Symmetry Workforce Solutions, LLC

By: 

Signature

John Martins

Name

SVP of Operations Strategy

Title

01/16/2020

Date

Managed Service Provider Agreement

ADDENDUM A-1: RATE TABLES FOR CLINICAL CANDIDATES

Clinical Candidate	Regular Rate	
Nursing	Travel	Registry
RN 1: Ambulatory Care, LTC/LTAC, Outpatient Clinic, Occupational Health, Primary Care, Rehab, TCU	\$71.00	\$71.00
RN 2: Bariatrics, Behavioral Health, HH/Hospice, MedSurg, MB/CC/PP, Nursery, OB/GYN, Oncology, Oncology Clinic, Ortho, Outpatient Surgery, Pain Management, PreOp, Urgent Care, Wound Care	\$73.00	\$73.00
RN 3: Apheresis, BMT, Chemo, Dialysis, DOU, Hematology, IMC, Infusion, IV Therapy, MS/Tele, Oncology Chemo Cert., PCU, Pediatrics, PICC, Radiation Oncology, Radiology, Step-Down, Telemetry	\$75.00	\$75.00
RN 4: Antepartum, CCU/ICU, Endo, ER, GI Lab, PACU	\$77.00	\$77.00
RN 5: Cath Lab, CVICU, CVOR, EP Lab, IR, L&D, NICU, OR, PICU	\$80.00	\$80.00
RN Case Manager, Utilization Review	\$76.00	\$76.00
RN First Assist	\$95.00	\$95.00
LPN/LVN	\$52.00	\$52.00
CNA	\$42.00	\$42.00
Nursing Leadership	Travel	Registry
Director	\$95.00	\$95.00
Educator	\$93.00	\$93.00
House Supervisor	\$95.00	\$95.00
Manager	\$85.00	\$85.00
Surgical Services	Travel	Registry
Sterile Tech	\$51.00	\$51.00
Endo/GI Tech	\$53.00	\$53.00
OR Tech	\$60.00	\$60.00
CVOR Tech	\$66.00	\$66.00
First Assist Tech	\$72.00	\$72.00
Cardiology	Travel	Registry
Cardiology 1: EKG Tech	\$60.00	\$60.00
Cardiology 2: Echo Tech, Vascular Tech	\$80.00	\$80.00
Cardiology 3: Cath Lab Tech, Electrophysiology Tech	\$84.00	\$84.00
Clinical Support Services	Travel	Registry
Anesthesia Tech	\$62.00	\$62.00
Behavioral Health Tech	\$42.00	\$42.00
Dietician	\$70.00	\$70.00
EMT	\$50.00	\$50.00
Medical Assistant	\$50.00	\$50.00
Monitor Tech	\$62.00	\$62.00
Laboratory	Travel	Registry

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Phlebotomist	\$48.00	\$48.00
Lab Assistant	\$52.00	\$52.00
Medical Lab Tech	\$70.00	\$70.00
Medical Technologist, Microbiology Tech	\$72.00	\$72.00
Cyto Tech, Histology Tech	\$75.00	\$75.00
Clinical Lab Scientist, Medical Lab Scientist	\$72.00	\$72.00
Pathology Assistant	\$115.00	\$115.00
Pharmacy	Travel	Registry
Pharmacist	\$120.00	\$120.00
Pharmacy Tech	\$45.00	\$45.00
Radiology	Travel	Registry
Radiology 1: X-Ray Tech/Radiology Tech	\$70.00	\$70.00
Radiology 2: Mammography Tech, Nuclear Medicine Tech	\$76.00	\$76.00
Radiology 3: CT Tech, Diagnostic Medical Sonographer, Interventional Radiology Tech, MRI Tech, Ultrasound Tech	\$80.00	\$80.00
Radiation Oncology	Travel	Registry
Dosimetrist	\$120.00	\$120.00
Physicist	\$250.00	\$250.00
Radiation Therapist	\$100.00	\$100.00
Rehabilitation	Travel	Registry
COTA/PTA	\$62.00	\$62.00
Occupational Therapist/Physical Therapist	\$75.00	\$75.00
Speech Language Pathologist	\$78.00	\$78.00
Respiratory/Neuro Diagnostics	Travel	Registry
EEG Tech	\$58.00	\$58.00
Pulmonary Function Technologist	\$58.00	\$58.00
Respiratory Therapist (CRT/RRT)	\$62.00	\$62.00
Polysomnographer/Sleep Tech	\$64.00	\$64.00
Social Services	Travel	Registry
Medical Social Worker	\$70.00	\$70.00
Licensed Medical Social Worker	\$72.00	\$72.00

For any type of Candidate not mentioned above, rates may be determined in writing on a case-by-case basis. At any point during the term of this Agreement, rates may be renegotiated and must be accepted in writing by both Parties.